THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.22957 of 2007

Between:

Mittapally Shantha.

.. PETITIONER

and

The District Collector and another.

.. RESPONDENTS

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.22957 of 2007

ORDER:

Heard the learned counsel appearing for the petitioner and the learned

Government Pleader for Revenue appearing for the respondents.

It is the case of the petitioner that her husband purchased the lands admeasuring Ac.0-16 gts. and Ac.0-10 gts. respectively in Sy.No.171 situated at Rekurthi village, Karimnagar Mandal and District, from his vendors, after verifying the revenue records that they are not assigned lands and the said lands are patta lands. It is stated that her husband left to Dubai for his employment and presently he is staying at Dubai and, therefore, the petitioner is in possession and enjoyment of the said lands. While so, the Tahsildhar, Karimnagar, issued notice to the so-called assignees, but not to the petitioner. As no explanation was received pursuant to the said cause notice, the Tahsildar, Karimnagar, passed impugned orders in File Nos.B/400/2007 and B/401/2007, in exercise of powers conferred under Section 4(1) (a) and (b) of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977, (for short "the Act") on the ground that the said lands are assigned lands and the assignees transferred the lands in favour of the husband of the petitioner in violation of Section 3(2) of the Act and accordingly, while cancelling the assignment orders, resumed the lands in question into the Government custody.

Learned counsel appearing for the petitioner submits that as per Rule 3 of A.P.Assigned Lands (Prohibition of Transfer) Rules, 2007, the Authorised Officer before passing order under Section 4(1) (a) and (b) of the Act, shall issue notice in Form-I to the assignees and Form-II to the transferee of the said assigned lands. But, in the instant case, notice in Form-II has not been served on the transferee and, therefore, the impugned orders passed by the Tahsildhar, Karimnagar, are illegal and contrary to the provisions of the Act.

I am not inclined to express any opinion on the merits of the case, as, admittedly, the impugned orders are appealable orders and the material available on record goes to show that notice has not been served on the petitioner and final order has not been furnished to the petitioner. But, however, on instructions, the learned Government Pleader for Revenue appearing for the respondents, produced copies of the final orders before this Court. As the copies of the final orders are made available, I am of the

opinion that it is just and proper to permit the petitioner to file appeal under Section 4-A (1) of the Act before the Revenue Divisional Officer, Karimnagar District.

Accordingly, the writ petition is disposed of permitting the petitioner to file appeal against the impugned orders passed by the Tahsildar, Karimnagar, in proceedings Nos.B/400/2007 and B/401/2007, within two weeks from the date of receipt of a copy of this order. Pending disposal of the appeal, the respondents are directed not to dispossess the petitioner from the lands in question. If no such appeal is filed within two weeks from the date of receipt of a copy of this order, the order passed by this Court shall stand vacated and it is open for the respondents to take appropriate action, pursuant to the impugned orders. There shall be no order as to costs.

_____

31-10-2007

Prv